

AMENDED IN SENATE APRIL 28, 2005

SENATE BILL

No. 491

Introduced by Senator Ducheny

February 18, 2005

~~An act relating to health facilities.~~ *An act to add Chapter 1 (commencing with Section 15465) to Part 7.2 of Division 3 of Title 2 of the Government Code, to amend Section 130060 of the Health and Safety Code, and to add Section 24349.1 to the Revenue and Taxation Code, relating to financing hospital seismic safety programs, by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 491, as amended, Ducheny. ~~Health facilities; seismic safety.~~
Earthquake Safety and Hospital Preservation Bond Act.

The existing Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 requires design and construction standards for hospital buildings that house patients who have less than the capacity of normally healthy persons to protect themselves, and that must be reasonably capable of providing services to the public after a disaster. The act requires the Office of Statewide Health Planning and Development (OSHPD) to approve or reject all plans for the construction or alteration of a hospital building. The act requires that, after January 1, 2008, any general acute care hospital building that is determined to be a potential risk of collapse or pose significant loss of life be used only for nonacute care hospital purposes. The act authorizes OSHPD to grant a delay in this deadline upon a demonstration by the owner that compliance will result in a loss of

health care capacity that may not be provided by other general acute care hospitals within a reasonable proximity.

Under the California Health Facilities Financing Authority Act, there is a California Health Facilities Financing Authority, which is empowered to make loans from the continuously appropriated California Health Facilities Financing Authority Fund to nonprofit corporations or associations for financing or refinancing the acquisition, construction, or remodeling of health facilities.

Existing law contains general obligation bond acts to finance the construction of state correctional, educational, and water facilities.

This bill would enact the Earthquake Safety and Hospital Preservation Bond Act which, if adopted, would authorize, for purposes of financing a seismic safety program for nonprofit and public general acute care hospitals, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of up to \$5,000,000,000.

The bill would provide for submission of the bond act to the voters at the next statewide general election or direct primary.

The Corporation Tax Law imposes a tax according to or measured by net income. That law allows various deductions in computing that income, including a depreciation deduction for specified types of property using specified methods of depreciation.

This bill would allow a depreciation deduction for a maximum of 10 years for any cost paid or incurred by a private investor-owned disproportionate share hospital on or after January 1, 2008, that is chargeable to capital account and that is necessary to comply with certain seismic safety requirements, by using a specified method of depreciation.

This bill would declare that it is to take effect immediately as an urgency statute.

~~The existing Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 states the Legislature's intent that hospital buildings that house patients who have less than the capacity of normally healthy persons to protect themselves, and that must be reasonably capable of providing services to the public after a disaster, be designed and constructed to resist, insofar as practical, the forces generated by earthquakes, gravity, and winds.~~

~~This bill would state the Legislature's intent to define, for purposes of the above provision of the act, "insofar as practical."~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~
yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) *The Legislature finds and declares all of the*
2 *following:*
3 (1) *Hospitals in California face an ever increasing list of*
4 *regulatory requirements and cost pressures as part of their*
5 *operating obligations. Antiterrorist and security requirements*
6 *along with general disaster preparedness are a significant part*
7 *of hospitals' operating costs. In addition, shortages in steel,*
8 *building products, and the availability of supplies are seriously*
9 *threatening the ability of many hospitals to meet seismic retrofit*
10 *requirements, and ultimately, to remain in operation.*
11 (2) *Emergency services, trauma care, and other hospital*
12 *services suffer as hospitals prepare to meet the retrofit*
13 *requirements.*
14 (3) *Information and knowledge about seismic compliant*
15 *buildings obtained in the past decade were not known in 1994,*
16 *necessitating a reevaluation of how the retrofit requirements*
17 *affect timing, costs, and access to facilities. The rising cost of*
18 *hospital construction, state budget deficits, growing numbers of*
19 *uninsured Californians, and other cost pressures make it*
20 *necessary to provide financial support for hospitals that are vital*
21 *to the state's health care delivery system.*
22 (b) *It is the intent of the Legislature in enacting this act to do*
23 *both of the following:*
24 (1) *To preserve hospital services for all California residents*
25 *and to ensure that hospitals are able to comply with reasonable*
26 *design, construction, and safety standards.*
27 (2) *To ensure that the original seismic safety law enacted in*
28 *1973 is interpreted and implemented in such a way as to balance*
29 *safety and access to essential hospital services.*
30 SEC. 2. *Chapter 1 (commencing with Section 15465) is added*
31 *to Part 7.2 of Division 3 of Title 2 of the Government Code, to*
32 *read:*

1 CHAPTER 1. EARTHQUAKE SAFETY AND HOSPITAL
2 PRESERVATION BOND ACT

3
4 Article 1. General Provisions

5
6 15465. *This chapter shall be known and may be cited as the*
7 *Earthquake Safety and Hospital Preservation Bond Act.*

8 15466. *As used in this chapter, the following terms have the*
9 *following meanings:*

10 (a) *“Authority” means the California Health Facilities*
11 *Financing Authority established pursuant to Section 15431.*

12 (b) *“Committee” means the Earthquake Safety and Hospital*
13 *Preservation Finance Committee.*

14 (c) *“Fund” means the Earthquake Safety and Hospital*
15 *Preservation Fund.*

16 (d) *“Program” means the Earthquake Safety and Hospital*
17 *Preservation Program established pursuant to this chapter.*

18
19 Article 2. Program

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21 15467. *The proceeds of bonds issued and sold pursuant to*
22 *this chapter shall be deposited in the Earthquake Safety and*
23 *Hospital Preservation Fund, which is hereby established in the*
24 *State Treasury and notwithstanding Section 13340 of the*
25 *Government Code continuously appropriated to the authority for*
26 *purposes of this chapter without regard to fiscal years.*

27 15468. *The purpose of the Earthquake Safety and Hospital*
28 *Preservation Program is to ensure that hospital services will*
29 *remain available to California residents, while also ensuring that*
30 *hospitals comply with seismic safety design and construction*
31 *standards, by assisting nonprofit and public general acute care*
32 *hospitals in complying with the Alfred E. Alquist Hospital*
33 *Facilities Seismic Safety Act of 1983, Chapter 1 (commencing*
34 *with Section 129675) of Part 7 of Division 107 of the Health and*
35 *Safety Code. The program provided for in this part is in the*
36 *public interest, serves a public purpose, and will promote the*
37 *health, welfare, and safety of the citizens of the state.*

38 15469. (a) *The authority may authorize the issuance of bonds*
39 *in an amount of up to five billion dollars (\$5,000,000,000).*

(b) The actual cost to the authority to administer the program shall not exceed one-half of 1 percent of the general obligation bonds issued and shall be taken from the bonds' corpus.

15470. (a) Moneys in the fund shall be available for expenditure by the authority for allocation to nonprofit and public general acute care hospitals in accordance with this chapter.

(b) The authority shall establish criteria, consistent with this chapter, for the allocation of moneys to hospitals for retrofit or construction projects necessary to bring the hospital in compliance with seismic safety standards established under the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983.

Article 3. Fiscal Provisions

15474. Bonds in the total amount of five billion dollars (\$5,000,000,000), or so much thereof as is necessary, not including the amount of any refunding bonds, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

15475. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4), and all of the provisions of that law, except Section 16727 to the extent that it may conflict with this chapter, apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

15476. (a) Solely for the purpose of authorizing the issuance and sale pursuant to the State General Obligation Bond Law of the bonds authorized by this chapter, the Earthquake Safety and Hospital Preservation Finance Committee is hereby established. For purposes of this chapter, the Earthquake Safety and Hospital

1 *Preservation Finance Committee is “the committee” as that term*
2 *is used in the State General Obligation Bond Law. The committee*
3 *consists of the Controller, the Director of Finance, and the*
4 *Treasurer, or their designated representatives. The Treasurer*
5 *shall serve as the chairperson of the committee. A majority of the*
6 *committee may act for the committee.*

7 *(b) For purposes of the State General Obligation Bond Law,*
8 *the authority is designated the “board.”*

9 *15477. The committee shall determine whether or not it is*
10 *necessary or desirable to issue bonds authorized pursuant to this*
11 *chapter in order to carry out the purpose of Article 2*
12 *(commencing with Section 15467) and, if so, the amount of bonds*
13 *to be issued and sold. Successive issues of bonds may be*
14 *authorized and sold to carry out those purposes progressively,*
15 *and it is not necessary that all of the bonds authorized to be*
16 *issued be sold at any one time.*

17 *15478. There shall be collected each year and in the same*
18 *manner and at the same time as other state revenue is collected,*
19 *in addition to the ordinary revenues of the state, a sum in an*
20 *amount required to pay the principal of, and interest on, the*
21 *bonds each year. It is the duty of all officers charged by law with*
22 *any duty in regard to the collection of the revenue to do and*
23 *perform each and every act that is necessary to collect that*
24 *additional sum.*

25 *15479. Notwithstanding Section 13340, there is hereby*
26 *appropriated from the General Fund in the State Treasury, for*
27 *the purposes of this chapter, an amount that will equal the total*
28 *of the following:*

29 *(a) The sum annually necessary to pay the principal of, and*
30 *interest on, bonds issued and sold pursuant to this chapter, as the*
31 *principal and interest become due and payable.*

32 *(b) The sum necessary to carry out Section 15480,*
33 *appropriated without regard to fiscal years.*

34 *15480. For the purposes of carrying out this chapter, the*
35 *Director of Finance may authorize the withdrawal from the*
36 *General Fund of an amount not to exceed the amount of the*
37 *unsold bonds that have been authorized by the committee to be*
38 *sold for the purpose of carrying out this chapter. Any amounts*
39 *withdrawn shall be deposited in the fund. Any money made*
40 *available under this section shall be returned to the General*

1 *Fund from proceeds received from the sale of bonds for the*
2 *purpose of carrying out this chapter.*

3 *15481. All money deposited in the fund that is derived from*
4 *premium and accrued interest on bonds sold shall be reserved in*
5 *the fund and shall be available for transfer to the General Fund*
6 *as a credit to expenditures for bond interest.*

7 *15482. Pursuant to Chapter 4 (commencing with Section*
8 *16720) of Part 3 of Division 4, the cost of bond issuance shall be*
9 *paid out of the bond proceeds. These costs shall be shared*
10 *proportionally by each program funded through this bond act.*

11 *15483. The authority may request the Pooled Money*
12 *Investment Board to make a loan from the Pooled Money*
13 *Investment Account, including other authorized forms of interim*
14 *financing that include, but are not limited to, commercial paper,*
15 *in accordance with Section 16312, for purposes of carrying out*
16 *this chapter. The amount of the request shall not exceed the*
17 *amount of the unsold bonds that the committee, by resolution,*
18 *has authorized to be sold for the purpose of carrying out this*
19 *chapter. The authority shall execute any documents required by*
20 *the Pooled Money Investment Board to obtain and repay the*
21 *loan. Any amounts loaned shall be deposited in the fund to be*
22 *allocated by the board in accordance with this chapter.*

23 *15484. The bonds may be refunded in accordance with*
24 *Article 6 (commencing with Section 16780) of Chapter 4 of Part*
25 *3 of Division 4, which is a part of the State General Obligation*
26 *Bond Law. Approval by the voters of the state for the issuance of*
27 *the bonds described in this chapter includes the approval of the*
28 *issuance of any bonds issued to refund any bonds originally*
29 *issued under this chapter or any previously issued refunding*
30 *bonds.*

31 *15485. Notwithstanding any other provision of this chapter,*
32 *or of the State General Obligation Bond Law, if the Treasurer*
33 *sells bonds pursuant to this chapter that include a bond counsel*
34 *opinion to the effect that the interest on the bonds is excluded*
35 *from gross income for federal tax purposes, subject to designated*
36 *conditions, the Treasurer may maintain separate accounts for the*
37 *investment of bond proceeds and for the investment of earnings*
38 *on those proceeds. The Treasurer may use or direct the use of*
39 *those proceeds or earnings to pay any rebate, penalty, or other*
40 *payment required under federal law or take any other action with*

1 *respect to the investment and use of those bond proceeds*
2 *required or desirable under federal law to maintain the tax*
3 *exempt status of those bonds and to obtain any other advantage*
4 *under federal law on behalf of the funds of this state.*

5 *15486. The Legislature hereby finds and declares that,*
6 *inasmuch as the proceeds from the sale of bonds authorized by*
7 *this chapter are not “proceeds of taxes” as that term is used in*
8 *Article XIII B of the California Constitution, the disbursement of*
9 *these proceeds is not subject to the limitations imposed by that*
10 *article.*

11 *SEC. 3. Section 130060 of the Health and Safety Code is*
12 *amended to read:*

13 130060. (a) (1) After January 1, 2008, any general acute
14 care hospital building that is determined to be a potential risk of
15 collapse or pose significant loss of life shall only be used for
16 nonacute care hospital purposes. A delay in this deadline may be
17 granted by the office upon a demonstration by the owner that
18 compliance will result in a loss of health care capacity that may
19 not be provided by other general acute care hospitals within a
20 reasonable proximity. In its request for an extension of the
21 deadline, a hospital shall state why the hospital is unable to
22 comply with the January 1, 2008, deadline requirement.

23 (2) Prior to granting an extension of the January 1, 2008,
24 deadline pursuant to this section, the office shall do all of the
25 following:

26 (A) Provide public notice of a hospital’s request for an
27 extension of the deadline. The notice, at a minimum, shall be
28 posted on the office’s Internet Web site, and shall include the
29 facility’s name and identification number, the status of the
30 request, and the beginning and ending dates of the comment
31 period, and shall advise the public of the opportunity to submit
32 public comments pursuant to subparagraph (C). The office shall
33 also provide notice of all requests for the deadline extension
34 directly to interested parties upon request of the interested
35 parties.

36 (B) Provide copies of extension requests to interested parties
37 within 10 working days to allow interested parties to review and
38 provide comment within the 45-day comment period. The copies
39 shall include those records that are available to the public
40 pursuant to the Public Records Act, Chapter 3.5 (commencing

with Section 6250) of Division 7 of Title 1 of the Government Code.

(C) Allow the public to submit written comments on the extension proposal for a period of not less than 45 days from the date of the public notice.

(b) (1) It is the intent of the Legislature, in enacting this subdivision, to facilitate the process of having more hospital buildings in substantial compliance with this chapter and to take nonconforming general acute care hospital inpatient buildings out of service more quickly.

(2) The functional contiguous grouping of hospital buildings of a general acute care hospital, each of which provides, as the primary source, one or more of the hospital's eight basic services as specified in subdivision (a) of Section 1250, may receive a five-year extension of the January 1, 2008, deadline specified in subdivision (a) of this section pursuant to this subdivision for both structural and nonstructural requirements. A functional contiguous grouping refers to buildings containing one or more basic hospital services that are either attached or connected in a way that is acceptable to the State Department of Health Services. These buildings may be *on either-on* the existing site or a new site.

(3) To receive the five-year extension, a single building containing all of the basic services or at least one building within the contiguous grouping of hospital buildings shall have obtained a building permit prior to 1973 and this building shall be evaluated and classified as a nonconforming, Structural Performance Category 1 (SPC-1) building. The classification shall be submitted to and accepted by the Office of Statewide Health Planning and Development. The identified hospital building shall be exempt from the requirement in subdivision (a) until January 1, 2013, if the hospital agrees that the basic service or services that were provided in that building shall be provided, on or before January 1, 2013, as follows:

(A) Moved into an existing conforming Structural Performance Category-3 (SPC-3), Structural Performance Category-4 (SPC-4), or Structural Performance Category-5 (SPC-5) and Non-Structural Performance Category-4 (NPC-4) or Non-Structural Performance Category-5 (NPC-5) building.

1 (B) Relocated to a newly-built compliant SPC-5 and NPC-4 or
2 NPC-5 building.

3 (C) Continued in the building if the building is retrofitted to a
4 SPC-5 and NPC-4 or NPC-5 building.

5 (4) A five-year extension is also provided to a post
6 1973-building if the hospital owner informs the Office of
7 Statewide Health Planning and Development that the building is
8 classified as a SPC-1, SPC-3, or SPC-4 and will be closed to
9 general acute care inpatient service use by January 1, 2013. The
10 basic services in the building shall be relocated into a SPC-5 and
11 NPC-4 or NPC-5 building by January 1, 2013.

12 (5) Any SPC-1 buildings, other than the building identified in
13 paragraph (3) or (4), in the contiguous grouping of hospital
14 buildings shall also be exempt from the requirement in
15 subdivision (a) until January 1, 2013. However, on or before
16 January 1, 2013, at a minimum, each of these buildings shall be
17 retrofitted to a SPC-2 and NPC-3 building, or no longer be used
18 for general acute care hospital inpatient services.

19 (c) On or before March 1, 2001, the office shall establish a
20 schedule of interim work progress deadlines that hospitals shall
21 be required to meet to be eligible for the extension specified in
22 subdivision (b). To receive this extension, the hospital building
23 or buildings shall meet the year 2002 nonstructural requirements.

24 (d) A hospital building that is eligible for an extension
25 pursuant to this section shall meet the January 1, 2030,
26 nonstructural and structural deadline requirements if the building
27 is to be used for general acute care inpatient services after
28 January 1, 2030.

29 (e) Upon compliance with this section, the hospital shall be
30 issued a written notice of compliance by the office. The office
31 shall send a written notice of violation to hospital owners that fail
32 to comply with this section.

33 *SEC. 4. Section 2 of this act shall take effect upon the*
34 *approval by the voters of the Earthquake Safety and Hospital*
35 *Preservation Bond Act, as set forth in Section 2 of this act.*

36 *SEC. 5. Section 2 of this act shall be submitted to the voters*
37 *at the next statewide general election or direct primary in*
38 *accordance with provisions of the Government Code and the*
39 *Elections Code governing the submission of a statewide measure*
40 *to the voters.*

SEC. 6. (a) Notwithstanding any other provision of law, all ballots of the election shall have printed thereon and in a square thereof, the words: "Earthquake Safety and Hospital Preservation Bond Act," and in the same square under those words, the following in 8-point type: "This act provides for a bond issue of five billion dollars (\$5,000,000,000) to provide funds for a hospital seismic safety financing program." Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

(b) Where the voting in the election is done by means of voting machines used pursuant to law in a manner that carries out the intent of this section, the use of the voting machines and the expression of the voter's choice by means thereof are in compliance with this section.

SEC. 7. Section 24349.1 is added to the Revenue and Taxation Code, to read:

24349.1. Notwithstanding Section 24349, any depreciation deduction otherwise allowable by that section for any cost paid or incurred on or after January 1, 2008, that is chargeable to capital account, and that is necessary to comply with the requirements of Article 8 (commencing with Section 130000) of Article 9 (commencing with Section 130050) of Chapter 1 of Part 7 of Division 107 of the Health and Safety Code, relating to seismic safety, as from time to time amended, shall be allowed at twice the annual rate specified by Section 24349 for a maximum of ten years. This section shall apply only to private, investor-owned hospitals that qualify as disproportionate share hospitals under Section 14105.98 of the Welfare and Institutions Code.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for hospitals to meet important seismic safety mandates, it is necessary that this act go into immediate effect.

~~SECTION 1. The Legislature intends to define, for purposes of subdivision (a) of Section 129680 of the Health and Safety~~

- 1 ~~Code contained in the Alfred E. Alquist Hospital Facilities~~
- 2 ~~Seismic Safety Act of 1983, “insofar as practical.”~~

O